SUPREME COURT OF THE UNITED STATES.

No. 166.

JAMES STIMPSON

vs.

THE BALTIMORE AND SUSQUEHANNA RAILROAD COMPANY.

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Circuit court of the United States for the Maryland district, April term, 1848.

JAMES STIMPSON
vs.
THE BALTIMORE AND SUSQUEHANNA RAILROAD COMPANY.

Transcript of the record for the Supreme Court of the United States.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-eight.

Present: The honorable Roger B. Taney, chief justice of the Supreme Court of the United States; Upton S. Heath, judge of Maryland district; William L. Marshall, esquire, attorney; Moreau Forrest, esquire, marshal; Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

JAMES STIMPSON
vs.
The BALTIMORE and SUSQUEHANNA RAILROAD COMPANY.

Be it remembered, that heretofore, to wit, on the third day of April, in the year of our Lord one thousand eight hundred and forty-seven, the said James Stimpson, by Charles F. Mayer, his attorney, prosecuted and sued forth, out of the circuit court here, the writ of the United States of America of capias ad respondendum, directed to the marshal of the Maryland district aforesaid, in the words and of the tenor following, to wit:

Writ.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To the marshal for the Maryland district, greeting:

We command you that you summon the Baltimore and Susquehanna Railroad Company, if they shall be found in your district, and [SEAL.] that them so summoned you safe keep, so that you have them before the judges of the circuit court of the United States for the fourth circuit, in and for the Maryland district, at the United States court room, in the city of Baltimore, on the first Monday in April, (instant,) to answer unto James Stimpson in a plea of trespass

on the case, &c. Hereof fail not at your peril, and have you then and there this writ.

Witness the honorable Roger B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-six.

THO. SPICER, *Cl'k circ't ct.*

C. F. M. Issued 3d April, 1847.

At which mentioned first Monday in April, in the year of our Lord one thousand eight hundred and forty-seven, being the day of the return of the aforegoing writ, comes into the circuit court here the said James Stimpson, by his attorney aforesaid, and the marshal of the Maryland district aforesaid, to whom the said aforegoing writ was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit:

"Summoned the President."

MOREAU FORREST, *U. S. Marshal.*

And the said Baltimore and Susquehanna Railroad Company, being called, appear in the circuit court here by James M. Campbell, their attorney.

Thereupon, further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first Monday in November next.

Afterwards, to wit, on the twenty-second day of October, in the year of our Lord one thousand eight hundred and forty-seven, the said James Stimpson, by his attorney aforesaid, declared against the said Baltimore and Susquehanna Railroad Company, in the plea aforesaid, in form following, to wit:

Declaration.

MARYLAND DISTRICT, *to wit:*

The Baltimore and Susquehanna Railroad Company was summoned to answer James Stimpson in a plea of trespass on the case, &c.

And thereupon the said Stimpson, the said plaintiff, by Charles F. Mayer, his attorney, complains, for that whereas the plaintiff was the first and original inventor of a certain new and useful art, in the letters patent hereinafter mentioned fully described, being a new and useful improvement in the mode of forming and using cast or wrought iron plates or rails for railroad carriage wheels to run upon, more especially for those to be used on the streets of cities, wharves, and elsewhere; and the plaintiff, being so the inventor thereof, did, on the twenty-third day of August, in the year eighteen hundred and thirty-one, obtain certain letters patent therefor from the United States of America, in due form of law, under seal, and signed and countersigned, and bearing date the day and year aforesaid, whereby there was secured to him, his heirs, executors, administrators, or assigns, for the term of fourteen years from

and after said date, the full and exclusive right and liberty of making, using, and vending to others to be used, the said art and invention as by said letters patent on the same are duly of record will appear fully.

And the plaintiff further in fact says, that afterwards, to wit, on the twenty-first day of September, in the year eighteen hundred and thirty-five, the said letters patent were by the plaintiff surrendered, with a view to their reissuing to him with an amended specification, and that letters patent, in the behalf and to the effect aforesaid, were accordingly granted to him with such amended specification on the day and in the year last mentioned, as by the record thereof will appear.

And the plaintiff further in fact says, that said letters patent last mentioned were afterwards, to wit, on the twenty-seventh day of August, in the year eighteen hundred and forty, surrendered to the United States aforesaid to be reissued to the plaintiff with an amended specification, and that, on the day and in the year last mentioned, there were granted and issued to the plaintiff letters patent in the behalf and to the effect aforesaid, with an amended specification as aforesaid, as by said letters patent, which the plaintiff brings here into court, will more fully appear.

And the plaintiff further avers, that afterwards, to wit, on the twenty-first day of August, in the year eighteen hundred and forty-five, upon consideration of the plaintiff's application to that end, and according to the act of Congress of the United States of America in such case made and provided, it appearing to the board in that behalf under said act constituted and empowered, to wit, the Secretary of State, the Commissioner of the Patent office, and the Solicitor of the Treasury of said United States of America, and to the full and entire satisfaction of said board, that it was just and proper, with due regard to the public interest therein, that the term of the letters patent aforesaid, to wit, the term mentioned in the first above mentioned letters patent should be extended for reason as prescribed for such extension by said act of Congress, the said Commissioner of Patents did, by virtue of said act of Congress, and as thereby empowered and required, renew and extend the patent aforesaid, in the premises as granted as above recited, to the plaintiff, by making a certificate on the letters patent aforesaid last above mentioned and referred to of said extension; and that for the term of seven years from and after the expiration of the first term of said patent, to wit, the term mentioned and limited in the first above recited letters patent, bearing date the 23d day of August, in the year 1831.

And the plaintiff further in fact says, that from the time of the granting of said letters patent hitherto he has vended to others to be used the said invention to his great profit, and that the said exclusive right has always been, and is, to him of great value; yet the said defendant, well knowing the premises, did, on the first day of January, in the year eighteen hundred and forty-one, and at divers times afterwards, and continually from said last mentioned day during as well the said original term of fourteen years, as the said extended term of seven years, use the said

invention, and also vend the same to others to be used, in violation of the exclusive right aforesaid of the plaintiff, so secured to him by said letters patent, without the consent, and against the will, of the plaintiff, and contrary to the form of the statutes of the United States of America in such case made and provided.

Wherefore the said plaintiff says, he has been much aggrieved, and has sustained actual damage to the value of five thousand dollars, and by force of the statutes aforesaid an action hath accrued to him to have as well the said actual damage, as such additional amount as the court shall see fit to adjudge to him.

CHARLES T. MAYER,
Plaintiff's attorney.

Rule plea.

At which said first Monday in November, in the year of our Lord one thousand eight hundred and forty-seven, come again into the circuit court here as well the said James Stimpson, by his attorney aforesaid, as the said Baltimore and Susquehanna Railroad Company, by their attorney aforesaid. And thereupon, on motion of the said James Stimpson, by his attorney aforesaid, it is ruled by the court here that the said James Stimpson answer to the declaration aforesaid of the said James Stimpson in the plea aforesaid, or judgment by the court here will be entered against them in default thereof.

Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the first Monday in April next.

Afterwards, to wit, on the twenty-fourth day of December, in the year of our Lord one thousand eight hundred and forty-seven, the said Baltimore and Susquehanna Railroad Company, by their attorney aforesaid, filed in the circuit court here the following plea, to wit:

In circuit court U. S., November term, 1847.

JAMES STIMPSON
vs.
BALTIMORE AND SUSQUEHANNA RAILROAD COMPANY.

Plea, not guilty.

And the said defendant, by James M. Campbell, its attorney, comes and defends the wrong and injury, when, &c., and says, that it is not guilty of the said supposed grievance, or any or either of them, in manner and form as the said plaintiff hath above complained against it; and of this it puts itself upon the country, &c.

Issue.

And the said James Stimpson in like manner, &c.

At which said first Monday in April, in the year of our Lord one thousand eight hundred and forty-eight, come again into the circuit

court here, as well the said James Stimpson, by his attorney aforesaid, as the said Baltimore and Susquehanna Railroad Company, by their attorney aforesaid.

And thereupon the parties aforesaid, by their attorneys aforesaid, file in the circuit court here a statement of facts, in the words following, to wit:

In the circuit court of the United States, for the fourth circuit, Maryland district, April term, 1848.

JAMES STIMPSON
vs.
The BALTIMORE AND SUSQUEHANNA RAILROAD COMPANY.

Statement of facts.

It is agreed that the privilege of the invention set forth or referred to in the declaration was intended to be secured to the plaintiff by letters patent, dated the 23d August, 1831; that said patent, for defectiveness of specification, was surrendered, and another instead thereof issued on 26th September, 1835; and that this last was, for like reason, surrendered, and another issued in place of it, bearing date the 27th day of August, A. D. 1840; and that said patent right was duly extended for the term of seven years from the 23d day of August, A. D. 1845, the period of the expiration of the term of said original letters patent. The invention is described in the specification in the words following, to wit:

Specification.

The schedule referred to in these letters patent, and making part of the same.

To all whom it may concern:

Be it known, that I, James Stimpson, of the city of Baltimore, in the State of Maryland, have invented a new and useful improvement in the mode of forming and using cast or wrought iron plates or rails for railroad carriage wheels to run upon; more especially for those to be used on the streets of cities, on wharves, and elsewhere; and I do hereby declare that the following is a full and exact description of my said inventions or improvements:

For the purpose of carrying railroads through the streets of towns or cities, and in other situations where circumstances may render it desirable that the wheels of ordinary carriages should not be subjected to injury or obstruction, I so construct or form the rails that the flanches of the wheels of railroad cars or carriages may be received and run within narrow grooves or channels, formed in or by said rails; said grooves not being sufficiently wide to admit the rims of the wheels of gigs or other ordinary carriages having wheels of the narrowest kind. These plates or rails may be varied in form according to circumstances.

In the accompanying drawing, fig. 1 represents a railroad track, supposed to be formed in a street, a part of it being shown as straight and

a part as curved. The other figures give sectional views of various forms in which I make my railway bars or plates, which are usually of cast iron, and are laid and secured down upon rails of wood. Fig. 2 is a section of the form of cast iron rail plate, which I most commonly use where the track is slightly curved; and fig. 3 a plate nearly the same with fig. 2, which I use where the track is nearly or quite straight. In these plates I make a groove or channel, as at *a*, which is to receive the flanch of the wheel. This channel should be about an inch and a half wide at the top and about an inch and a quarter at bottom; it is sufficiently deep to admit the flanch of the wheel to run in it without touching its bottom. The lower corners of the interior of this channel I make rounding or curved, in order that any dirt or other foreign matter collected therein may be the more readily forced out by the action of the flanches. The cheek or jam, which is on the inside of the channel, should be about three-fourths of an inch wider at top, and as high, or nearly so, as the face *c* of the plate upon which the tread of the wheel is to run. These plates I cast hollow at *d*, to save weight. They should be about two inches and a quarter deep, six inches and a half wide at the bottom, and about six inches and a quarter at the top; the taper at their sides, when thus formed, aiding in confining them in place by the wedging of the stones and earth of the pavement against them; they may be cast three or four feet in length; their ends should be bevelled, say at an angle of forty-five degrees; or they may be formed with a tenon and mortise. They have spike-holes through them, in order to fasten them down to the rails of wood or of stone upon which they are placed.

Fig. 3 is the same with fig. 2, excepting that it has a slight champher or rounding off of the angle of the face, as shown at *e*, to admit the cone or curve on the tread of the wheel where it joins the flanch, to run free, so that the general tread of the wheel may bear on the face *c* of the plate; which face I prefer to make a little crowning.

Where the road is perfectly straight, as at A, on the track, this champhered cage plate is to be preferred; but where it is slightly curved, as at B, on the track, I on the outside of the curve use the rails shown in fig. 2, which are not champhered, as the conical or larger part of the tread of the wheel close to the flanch will then bear upon the edge *e*, and this being larger than the tread, will cause the wheels to roll round such curved parts of the road with little or no slipping.

Where it is necessary to turn a curve of shorter radius than that which could be readily effected by the aid of the conical part of the wheel, as at C, on the track, I then resort to the plan, secured to me by letters patent for "turning short curves on railroads," which letters patent bear the same date, having been granted on the same day with the letters patent of which this instrument makes a part, for railroad plates to be used on the streets of cities, &c.; that is to say, I apply "the flanches of the wheels on one side of the railroad carriages, and the tread of the wheels on the other side, to turn curves on railways." In this case, a railroad plate may be made, like that shown in fig. 4,

to form the channel for the wheel on the larger or outer curve. In this case, the groove or channel is not to be equal in depth to the rise or projection of the flanch, so that the flanch alone bears on the rail on this outer side, and takes the whole weight of the load, thus freeing the tread of the wheel on that side from the face of the plate for the distance necessary to turn the curve; for a full exemplification of which plan I refer to said letters patent for "turning short curves." Such curves, however, will rarely if ever occur, excepting in the turning of the corners of streets; and to this particular mode I make no claim in the present patent. When the wheels arrive at the straight part of a track, after having run upon a curved part, the rails shown in fig. 3 are used, or others of a like nature.

It is to be understood that the object had in view in varying the form of the rails by champhering as in fig. 3, or by omitting the champher as in fig. 2, is to attain the same end, namely, the running with little friction, or dragging around curves in the streets, which is attained, on the ordinary railroad tracks out of cities, by allowing the cars to vibrate from side to side, so that the varying diameter on the conical parts of the treads of the wheels may cause them to adapt themselves to curvatures on the road. The narrow channel used by me, and so essential in cities, *do* not admit of this lateral vibration, but, by the devices above described, a similar result is attained.

In most cases for passing along streets, and more especially when the iron rails are imbedded in rails or sills of stone, I prefer so to construct the said iron rails as that the wheels shall run altogether on the flanches. In this case, I use iron plates, such as are represented in fig. 4. These plates may be made two inches and three-quarters wide at top, and three inches at the bottom; the channel or groove may be about five-eighths of an inch in depth, and an inch and a quarter wide at the top, and an inch at the bottom; the corners, at the bottom of the groove, being curved as in figs. 2 and 3. The thickness below the bottom of the groove or channel may be three-fourths of an inch; the plates would then be one inch and three-eighths in depth. These shallow channelled plates present several advantages, among which are, that they will offer less resistance than others to the motion of the cars; they are much lighter than others; they will not require any cleaning out, the flanches effecting this perfectly, which may not always be the case in deeper channels. These shallow channels may be made narrower than the deeper ones, the flanches being much thinner at their outer edges than they are near to the treads of the wheels. The wheels will, undoubtedly, be as safely guided in the shallow as in the deeper channels, and the rails will be equally durable with those of greater weight. When rails of this description are sunk into a channel in a rail of stone or wood, the base being wider than their upper sides, the pressure of sand into the seams on each side of the iron, caused by the running of common carriage wheels over them, will effectually confine the iron plates between the jambs of the stone or wood. Fig. 6 shows

a rail plate resembling fig. 4, but having a channel the whole depth of the flanch.

Should it be preferred to use the ordinary flat wrought iron rails, they may be laid double, at such a distance apart as to form the proper channel for the flanch between them; f f fig. 5 are sections of two such iron plates, and are shown as used at D on the track. Wrought plates may also be formed in the manner represented in fig. 7. This plate is rolled so as to have a channel a in it, which may be one inch and a quarter wide at top, one inch at bottom, and five-eighths of an inch deep. The plate g g, on each side of the channel, may be two inches wide; the whole plate may be of uniform thickness, and furnished with spike holes alternately on each side of the channels; these are supposed to be used at E on the track. Where it is necessary to cross a water gutter in the street, I use a cast iron plate, or plates, to cross said gutter, the flanch channels being in such plate or plates. The whole surface between the channels is cast rough, to prevent the slipping of the feet of horses. The aforesaid cast iron plate is best cast in one piece, as it will be stronger than if divided; although of the same thickness, it must, of course, be of a width sufficient for the particular gutter to which it is to be applied, and it should be strengthened by having ribs cast on its lower side; these should be about an inch and a quarter deep, exclusive of the thickness of the plate. In some cases I cover the gutters the whole width of the street with such cast iron plates, and extend them to some distance beyond the curbings. I thus make a great improvement in streets for the ordinary purposes of travel. Such a plate is shown in fig. 8, a a being the grooved channels cast therein, and h h the upper face of the plate, cast rough or chequered.

Having thus fully described the nature of my improvements, and pointed out various modes in which the same may be carried into effect, what I claim as constituting my invention, and desire to secure by letters patent, is the employment of plates or rails, either of cast or of wrought iron, constructed and operating upon the principle or in the manner herein described, having narrow grooves on each side of the track for the flanches of car wheels to run in, by which they are adapted to the unobstructed passing over them of the various kinds of common carriages, and to the running of the wheels on slight curves without dragging. I also claim, in combination with such grooved rails or tracks, the employment of plates of cast iron for the covering and crossing of gutters, such plates being constructed as described, and having the necessary flanch channels cast in them. And I do hereby declare, that I do not intend to confine myself to the precise forms and dimensions herein given, these being designed merely to exemplify, in a clear manner, the nature, object, and mode of carrying into effect of my said invention.

JAMES STIMPSON.

Witnesses—J. M. Stimpson,
S. E. Stimpson.

Whereas upon the petition of James Stimpson for an extension of the within patent, granted to the said Stimpson on the 25th day of August, 1831, the board of commissioners, under the 18th section of act of Congress, approved the 4th day of July, 1836, entitled an act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose, did, on the 21st day of August, 1845, certify, that said patent ought to be extended. Now, therefore, I, Edmund Burke, Commissioner of Patents, by virtue of the power vested in me by said 18th section, do renew and extend said patent, and certify, that the same is hereby extended for the term of seven years from and after the expiration of the first term, viz., the 23d day of August, 1845; which certificate of the said board of commissioners, together with this certificate of the Commissioner of Patents, having been duly entered of record in the Patent office, the said patent now has the same effect in law as though the same had been originally granted for the term of 21 years.

In testimony whereof I have caused the seal of the Patent office to be hereunto affixed this 21st day of August, 1845.

[SEAL.]

EDMUND BURKE,
Commissioner of Patents.

It is admitted that for the invention of the plaintiff, referred to in the above mentioned specification as being for "turning short corners," a patent dated 23d August, 1831, duly issued to him, which, for defect in specification, was surrendered; and that another, in place of it, issued to him, dated the 26th September, 1835, and that said patent was duly extended for the term of seven years from 23d August, 1845, when the term of said original patent ended.

It is admitted that the invention for "turning short corners," as described in the specification in the patent of 26th September, 1835, as follows, to wit:

Specification.

The schedule referred to in these letters patent, and making part of the same, containing a description in the words of the said James Stimpson himself of his improvement in the mode of turning short curves on railroads, for which letters patent were granted, dated the 23d day of August, 1831, which letters patent being hereby cancelled on account of a defective specification.

To all whom these presents shall come:

Be it known that I, James Stimpson, of the city and county of Baltimore, and State of Maryland, have invented a new and useful improvement in the mode of turning short curves upon railroads with railroad carriages, particularly those round the corners of streets, wharves, &c., and that the following is a full and exact description of said invention or improvement as invented or improved by me, viz:

I use or apply the common peripheries of the flanches of the wheels for the aforesaid purpose in the following manner:

I lay a flat rail, which however may be grooved, if preferred, at the commencement of the curvature, and in a position to be centrally under the flanches of the wheels upon the outer track of the circle, so that no other part of the wheels which run upon the outer circle of the track rails shall touch or bear upon the rails but the peripheries of the flanches, they bearing the whole weight of the load and carriage, while the opposite wheels which run upon the inner track of the circle are to be run and bear upon their treads in the usual way, and their flanches run freely in a groove or channel, which treads are ordinarily about three inches in diameter less than the peripheries of the flanches. When the bearing surfaces of the wheels which are in contact with the rails while thus turning the curve to be connected by straight lines from every point, there would thus be formed the frustrums of two cones, (if there be four wheels and two axles to the carriage,) or if but one axle and two wheels, then but one cone; which frustrums, or the wheels representing their extremities will, if the wheels are thirty inches in diameter, and are coupled about three feet six inches apart, turn a curve of about sixty feet radius of the inner track rail. The difference in diameter between the flanches and treads before stated, the tracks of the usual width and the wheels coupled as stated, would turn a curve of a somewhat smaller radius if the axles were not confined to the carriage, and in a parallel position with each other; but this being generally deemed necessary, the wheels run upon lines of tangents, and those upon the inner track being as wide apart in the coupling as the outer ones, keep constantly inclining the carriage outwards, and thus cause the carriage to tend to run upon a larger circle than the difference in diameter of the treads and flanches would otherwise give; but the depth of the flanches and the couplings may be so varied as to turn any other radius of a circle desired. What I claim as my invention or improvement, is the application of the flanches of the wheels on one side of railroad carriages, and of the treads of the wheels on the other *on the other* side, to turn curves upon railways, particularly such as turning the corners of streets, wharves, &c., in cities and elsewhere, operating upon the principle herein set forth.

JAMES STIMPSON.

Witnesses: JAMES H. STIMPSON,
GEO. C. PENNIMAN.

Whereas, upon the petition of James Stimpson for an extension of the within patent granted to the said Stimpson on the 23d day of August, 1831, the board of commissioners under the 18th section of act of Congress approved the 4th day of July, 1836, entitled an act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose, did, on the 21st day of August, 1845, certify that said patent ought to be extended:

Now, therefore, I, Edmund Burke, Commissioner of Patents, by virtue of the power vested in me by said 18th section, do renew and extend said patent, and certify that the same is hereby extended for the

term of seven years from and after the expiration of the first term, viz., the 23d day of August, 1845; which certificate of the said board of commissioners, together with this certificate of the Commissioner of Patents, having been duly entered of record in the Patent office, the said patent now has the same effect in law as though the same had been originally granted for the term of 21 years.

In testimony whereof I have caused the seal of the Patent [SEAL.] office to be hereunto affixed, this 21st day of August, 1845.

EDMUND BURKE,
Comm'r Patents.

It is further admitted, that, before and since the period of said extension of the first above mentioned patent, the defendant, a corporation created by the general assembly of Maryland for the business of, and engaged in, the transportation of passengers and goods by railways belonging to them, did, upon their railway, and as part thereof, in the city of Baltimore, and at the corner of two streets, to be turned in the course of said transportation, construct, and has ever since kept up and used, a curve furnished and fitted as follows, to wit: On the inner side of the curve is placed a double iron rail cast in one piece, with the interval between large enough to allow the admission of the flanch of the wheel; the rail on the outer side being the usual one throughout the curve, without difference of any kind, except that it is curved; and it is admitted that the passage of the cars round the curve is throughout, and always upon the treads of both wheels; and these rails were intended and used for the purpose of enabling the cars to turn the curves of the streets above mentioned.

Upon this statement of facts it is submitted to the court to determine whether the defendant, under a just construction of said patent declared upon, has been guilty of any violation thereof. And it is agreed, that if the court shall, in the premises, be of opinion in favor of the plaintiff, judgment shall thereupon be rendered for the plaintiff for the damages laid in the declaration; to be released on payment of such sum as shall be found for actual damages by a jury, to be empannelled by consent for that purpose, subject to be increased by the court, according to the act of Congress in such case made and provided.

The court to render an absolute judgment for the defendant if of opinion in the premises with the defendant; and either party having the right to sue out a writ of error from the judgment of the court.

It is further agreed, that the railway above mentioned used by the defendant is not sunk into the ground, so as to make the top of the rail on a level with the surface, but projects above the surface the height of the rail; and that the court shall have the power to draw all inferences from the facts herein stated which could be drawn by a jury.

CHARLES F. MAYER,
Plaintiff's attorney.

J. M. CAMPBELL,
Defendant's attorney.

Judgment.

Whereupon, all and singular the premises being seen, heard, and by the court here fully understood, for that it appears to the court here that the said James Stimpson is not entitled to recover in the plea aforesaid:

Therefore, it is considered by the court here, that the said James Stimpson take nothing by his writ and declaration aforesaid, but that he be in mercy for his false clamor, and that the said Baltimore and Susquehanna Railroad Company go thereof without day, &c.

And it is also considered by the court here, that the said Baltimore and Susquehanna Railroad Company recover against the said James Stimpson the sum of fourteen dollars and fifty cents by the court here unto them on their assent adjudged for their costs and charges by them about their defence in this behalf laid out and expended, and that they have thereof their execution against the said James Stimpson, &c.

Afterwards, to wit, on the eighteenth day of April, in the year of our Lord one thousand eight hundred and forty-eight, the said James Stimpson, by his attorney aforesaid, produced to the said circuit court here the writ of the said United States of America for the correcting of errors of and upon the premises, commanding the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next; which said writ of error is in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the judges of the circuit court of the United States for the district of Maryland, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which [is] in the said circuit court before you, or some of you, in which James Stimpson is plaintiff in [L. S.] error, and the Baltimore and Susquehanna Railroad Company are defendants in error, a manifest error hath happened to the great damage of the said James Stimpson, as by his complaint appears: We being willing that error, [if any] hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington on the first Monday in December next, in the said Supreme Court to be then and there held; that the record and proceedings being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-seven.

Issued 18th April, 1848.

THO. SPICER,
Clerk circuit court.

In pursuance whereof, and according to the form and effect of the act of Congress in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said supreme court accordingly.

The United States of America, to the Baltimore and Susquehanna Railroad Company, greeting:

You are hereby cited and admonished to appear at a Supreme Court of the United States, to be held at the city of Washington, on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fourth circuit in and for the Maryland district, wherein James Stimpson is plaintiff in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said James Stimpson, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal this seventh day of July, in the year of our Lord one thousand eight hundred and forty-eight.

R. B. TANEY. [SEAL.]

I acknowledge notice of the above citation.

J. M. CAMPBELL,
Attorney for B. and S. R. R. Co.

Writ of error bond.

Know all men by these presents, that we, James Stimpson and James H. Stimpson, of the city of Baltimore, in the district of Maryland, are held and firmly bound unto the Baltimore and Susquehanna Railroad Company, in the just and full sum of five hundred dollars, lawful money of the United States, to be paid to the said Baltimore and Susquehanna Railroad Company, their certain attorney, successors or assigns; to which payment well and truly to be made and done, we hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this thirtieth day of June, in the year of our Lord one thousand eight hundred and forty-eight.

Whereas heretofore, to wit, on the third of April, in the year of our Lord one thousand eight hundred and forty seven, the said James Stimpson instituted his suit against the said Baltimore and Susquehanna Railroad Company, in the circuit court of the United States for the fourth circuit, in and for the Maryland district, for the recovery of damages for a violation of a patent right.

And whereas, also, in the said court, begun and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-eight, judgment was rendered for the defendants on a case stated.

And whereas the said James Stimpson hath sued out the writ of the said United States of America for the correcting of errors, and a citation directed to the said Baltimore and Susquehanna Railroad Company, citing and admonishing them to be and appear at a Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next, to shew cause, if any there be, why the judgment so as aforesaid rendered, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Now, the condition of the above obligation is such, that if the said James Stimpson shall well and truly prosecute with effect his said writ of error, and pay to the said Baltimore and Susquehanna Railroad Company the costs and charges which have been adjudged to them, the said Baltimore and Susquehanna Railroad Company, in the said circuit court, and also all such costs and charges which may be awarded by the said Supreme Court, in case he shall fail to make good his said plea, then the above obligation to be void, otherwise to be and remain in full force and virtue.

JAMES STIMPSON, [SEAL.]
JAMES H. STIMPSON. [SEAL.]

Signed, sealed, and delivered, in presence of—

THO. SPICER.

In testimony that the aforegoing is a true copy taken from the record and proceedings of the circuit court aforesaid, I hereunto subscribe my name and affix the seal of the said circuit court this [SEAL.] seventh day of July, in the year of our Lord one thousand eight hundred and forty-eight.

THO. SPICER,
Clerk circuit court.

[For copy of drawing see original.]

It is admitted that these are copies of the drawings annexed to and made part of the specifications of the patents mentioned in the foregoing statement.

J. M. CAMPBELL,
Attorney for the Balt. and Susqa. R. R. C.
CHARLES F. MAYER,
Attorney for Stimpson.

Filed, 5 August, 1848.

Witness the honorable Roger B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-seven.

Issued 18th April, 1848. THO. SPICER,
Clerk circuit court.

In pursuance whereof, and according to the form and effect of the act of Congress in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said supreme court accordingly.

The United States of America, to the Baltimore and Susquehanna Railroad Company, greeting:

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THO. SPICER,
Clerk circuit court.

[For copy of drawing see original.]

It is admitted that these are copies of the drawings annexed to and made part of the specifications of the patents mentioned in the foregoing statement.

J. M. CAMPBELL,
Attorney for the Balt. and Susqa. R. R. C.
CHARLES F. MAYER,
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Filed, 5 August, 1848.